

PTO/SB/21 (09-04)

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**TRANSMITTAL  
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

29

Application Number

10/687,865

Filing Date

October 17, 2003

First Named Inventor

E. Marlowe Goble, et al.

Art Unit

Examiner Name

Attorney Docket Number

MED-1 CON CIP

**ENCLOSURES (Check all that apply)**

Fee Transmittal Form



Fee Attached



Amendment/Reply



After Final



Affidavits/declaration(s)



Extension of Time Request



Express Abandonment Request



Information Disclosure Statement



Certified Copy of Priority Document(s)

Reply to Missing Parts/  
Incomplete ApplicationReply to Missing Parts  
under 37 CFR 1.52 or 1.53

Drawing(s)



Licensing-related Papers



Petition

Petition to Convert to a  
Provisional Application

Power of Attorney, Revocation



Change of Correspondence Address



Terminal Disclaimer



Request for Refund



CD, Number of CD(s) \_\_\_\_\_

☐ Landscape Table on CD

After Allowance Communication to TC

Appeal Communication to Board  
of Appeals and InterferencesAppeal Communication to TC  
(Appeal Notice, Brief, Reply Brief)

Proprietary Information



Status Letter

Other Enclosure(s) (please identify  
below):

Remarks

Return Receipt Postcard and Copies of all Foreign and Other Listed References

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm Name

MedicineLodge, Inc.

Signature

Printed name

David Meibos

Date

8-29-05

Reg. No.

45,885

**CERTIFICATE OF TRANSMISSION/MAILING**

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature

Typed or printed name

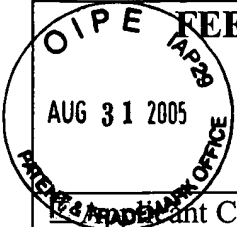



Kathleen Hansen

Date

8/29/05

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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<input checked="" type="checkbox"/> Check <input type="checkbox"/> Credit Card <input type="checkbox"/> Money Order <input type="checkbox"/> Other <input type="checkbox"/> None  <input checked="" type="checkbox"/> Deposit Account: <div style="border: 1px solid black; padding: 2px; margin: 5px 0;">50-3352</div> <div style="border: 1px solid black; padding: 2px; margin: 5px 0;">MedicineLodge, Inc.</div> <p>The Commissioner is authorized to: (Check all that apply)</p> <input type="checkbox"/> Charge fee(s) indicated below <input checked="" type="checkbox"/> Charge any additional fee(s) during the pendency of this application <input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.		<b>3. ADDITIONAL FEES</b> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2">Large Entity</th> <th colspan="2">Small Entity</th> <th rowspan="2">Fee Description</th> <th rowspan="2">Fee Paid</th> </tr> <tr> <th>Code</th> <th>Fee (\$)</th> <th>Code</th> <th>Fee (\$)</th> </tr> </thead> <tbody> <tr> <td>1051</td> <td>130</td> <td>2051</td> <td>65</td> <td>Surcharge - late filing fee or oath.</td> <td></td> </tr> <tr> <td>1052</td> <td>50</td> <td>2052</td> <td>25</td> <td>Surcharge - late provisional filing fee or cover sheet.</td> <td></td> </tr> <tr> <td>1053</td> <td>130</td> <td>1053</td> <td>130</td> <td>Non-English specification.</td> <td></td> </tr> <tr> <td>1251</td> <td>120</td> <td>2251</td> <td>60</td> <td>Extension for reply within first month.</td> <td></td> </tr> <tr> <td>1252</td> <td>450</td> <td>2252</td> <td>225</td> <td>Extension for reply within second month.</td> <td></td> </tr> <tr> <td>1253</td> <td>1,020</td> <td>2253</td> <td>510</td> <td>Extension for reply within third month.</td> <td></td> </tr> <tr> <td>1254</td> <td>1,590</td> <td>2254</td> <td>795</td> <td>Extension for reply within fourth month.</td> <td></td> </tr> <tr> <td>1255</td> <td>2160</td> <td>2255</td> <td>1,080</td> <td>Extension for reply within fifth month.</td> <td></td> </tr> <tr> <td>1401</td> <td>500</td> <td>2401</td> <td>250</td> <td>Notice of Appeal.</td> <td></td> </tr> <tr> <td>1402</td> <td>500</td> <td>2402</td> <td>250</td> <td>Filing a brief in support of an appeal.</td> <td></td> </tr> <tr> <td>1403</td> <td>1,000</td> <td>2403</td> <td>500</td> <td>Request for oral hearing.</td> <td></td> </tr> <tr> <td>1451</td> <td>1,510</td> <td>1451</td> <td>1,510</td> <td>Petition to institute a public use proceeding.</td> <td></td> </tr> <tr> <td>1452</td> <td>500</td> <td>2452</td> <td>250</td> <td>Petition to revive - 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<b>SUBMITTED BY:</b> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>Name</td> <td>David W. Meibos</td> <td>Registration No.</td> <td>45,885</td> <td>Telephone:</td> <td>435-753-7675</td> </tr> <tr> <td>Signature</td> <td></td> <td>Date</td> <td colspan="3">8-28-05</td> </tr> </table>				Name	David W. Meibos	Registration No.	45,885	Telephone:	435-753-7675	Signature		Date	8-28-05																																																																																																																																																																																										
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PATENT  
Docket No. MED-1 CON CIP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**Applicants:** E. Marlowe Goble, et al.

Serial No.: 10/687,865

Filed: October 17, 2003

For: **FACET JOINT REPLACEMENT**

Examiner:

Group Art  
Unit:

**SUPPLEMENTAL INFORMATION DISCLOSURE**  
**STATEMENT UNDER 37 C.F.R. § 1.97**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Please find, pursuant to 37 C.F.R. § 1.98(a)(1), the enclosed Form PTO-1449 which contains a list of all patents, publications, or other items that have come to the attention of one or more of the individuals designated in 37 C.F.R. § 1.56(c). While no representation is made that these references may be "prior art" within the meaning of that term under 35 U.S.C. §§ 102 or 103, the enclosed listed references is disclosed so as to fully comply with the duty of disclosure set forth in 37 C.F.R. § 1.56. Moreover, while no representation is made that a specific search of office files or patent office records has been conducted or that no better art exists, the undersigned associate believes that the enclosed art is the closest to the claimed invention (taken in its entirety) of which the undersigned is presently aware.

The fee set forth in 37 C.F.R. § 1.17(p) is enclosed.

In accordance with 37 C.F.R. §§ 1.97 and 1.98, a copy of each of the listed references or relevant portion thereof is also enclosed.

STATEMENT OF RELEVANCE OF REFERENCES LISTED UNACCOMPANIED BY  
ENGLISH TRANSLATION UNDER 37 CFR § 1.98(A)(3)

In accordance with 37 CFR § 1.98(a)(3), the following concise explanation of the relevance of each listed reference that is not in the English language and unaccompanied by a translation into English is provided.

1. French Application No. WO 01/49192A1 The invention concerns a stabilizing device (150) designed to link to vertebrae, comprising at least two chambers (156, 158, 186, 188) arranged proximate to said vertebrae, said chambers containing a shock absorbing fluid. Means (192, 194) are provided for providing fluid communication with controlled flow between said two chambers, thereby adequately damping the patient's movements.
2. German Application No. WO 01/56489A1 The invention concerns a bone plate for connecting at least two bone parts, especially vertebral bodies, comprising a fixing area in the shape of a plate for each of the bone parts and at least one through hole for a bone screw in each of the fixing areas. The invention aims at enabling a given relative movement of the bone parts. To this end, at least one slot extending crosswise in relation to the longitudinal direction of the bone plate is disposed between two fixing areas. Said slot begins on a lateral edge of the bone plate and extends at least up to the half-width of the bone plate.
3. French Application No. WO 02/00124A1 The invention concerns a device comprising at least a fixed element (2), secured to a vertebra, at least a mobile element (10), capable of moving relative to the or each fixed element, and at least an intermediated element (22) for articulating the mobile element relative to the dice element. The intermediate element (22) is received in an internal volume of the mobile element (10), and the fixed element (2) is received at least partly in an internal volume (26) of the intermediate element (22). Means are provided for securing, at least in translation, said intermediate element (22) to the fixed element (2), comprising the periphery of the substantially rigid outlet of the internal volume of the intermediate element.
4. French Application No. WO02/03882A2 The invention concerns an intervertebral implant comprising a wedge, designed to be pressed between two spinous processes of two vertebrae. The wedge comprises two elements (10, 12) made of the first material, having a first end (10a, 12a) and a second end (10b, 12b), said first end (10a, 12a) capable of being secured to a spinous process, and , a linking piece (14) made of a second material with grated elastic deformability than said first material, linking said second ends (10b, 12b), of said two elements (10, 12) so that the loads exerted o said two elements (10, 12) are absorbed, whereby said intervertebral implant is adapted to limit and brake the relative movement of said vertebrae.

5. French Application No. WO 02/07621A1 The invention concerns a linking piece designed to maintain a spacing between at least two anchoring elements screwed into vertebrae. The piece comprises at least: a flexible part (10) divided into two branches (12, 14), the ends of said branches being interconnected in pairs and defining a first neutral plane (Pm), and, two rigid parts (20, 22) forming rods, having a first fixing portion (20', 22') and a second fixing portion (20'', 22''), each said second portion (20'', 22'') of said rigid parts (20, 22) extending respectively in tow opposite directions said ends of said branches interconnected in pairs, such that said linking piece, whereof the fixing portions (20', 22) are respectively fixed on each of the anchoring elements is designed to bend elastically perpendicularly to said neutral plane (Pm).
6. French Application No. WO 02/07622A1 The invention concerns a linking piece designed to maintain a spacing between at least two anchoring elements screwed in vertebrae. It comprises at least: two rigid parts forming rods (12, 14) made in a first material, each having a first fixing portion (16, 18) adapted to be fixed into a anchoring element and a second securing portion (20, 22), said rods (12, 14) being located in the extension of each other and said securing portions (20, 22) opposite each other, and, a linking member (24) made in a second material with greater elastic deformability than the first material, linking said rigid parts (12, 14) by their securing portions (20, 22) opposite each other such that said linking piece (24) is adapted to be elastically deformed, whereby the vertebrae, maintained spaced apart form each other, are mobile relative to each other.
7. French Application No. WO 02/43603A1 The invention concerns an intervertebral stabilizing device, designed to link two neighbouring vertebrae (2, 2'), characterized in that it comprises an upper stop element (26), integral with the upper vertebra (2) and a lower stop element (34) integral with the lower vertebra (2') said extra-disc stop elements (26, 34) having mutual support surfaces (26', 38) adapted to allow a mutual rotation of said upper (2) and lower (2') vertebrae about the patient's transverse and sagittal axes, and to prevent a mutual rotation of said two vertebrae about a vertical axis, said support surfaces being further adapted to allow mutual translation of said vertebrae in a single direction along the sagittal axis, to allow translation between said two vertebrae in both directions along the vertical axis, and to prevent translation between said two vertebrae in both directions along the transverse axis.
8. French Application No. WO 03/009737A1 The invention concerns a device comprising at least a fixed element (2) designed to be secured to a vertebra or sacrum, at least a mobile linking element (10) and at least an intermediate element (20), articulating the mobile element relative to the fixed element, the intermediate element being received, in use, in an internal volume (16) of the mobile element (10). Said intermediate element (20) is deformable, so as to

be introduced by impingement into said inner volume (16), and the fixed element (2) is received at least partly, in use, in an internal volume (30) of the intermediate element (20). Said fixed element (2) has, with the intermediate element, a position for use, wherein said fixed element has three degrees of freedom in rotation, but is linked in translation, relative to the intermediate element and a position for insertion, wherein said fixed element has three degrees of freedom in rotation and in translation relative to the intermediate element.

9. French Application No. WO 03/015646A2 The invention concerns an assembly comprising: a rear damping implant (10), configured to be laterally placed at the blade-spinal junction of two vertebrae (2, 3) treated without resection of the supra-spinal rear ligament (5), said implant (10) having a height such that, when set in place, it enables, to reset the supra-spinal rear ligament in anatomical tension; and at least a damping interbody implant (11), configured to be inserted between the vertebral end-plates of the two treated vertebrae (2, 3), by the same path used during dissection, said implant (11) having a height such that, when set in place, it enables to restore the anatomical height of the intervertebral disc (4) and to reset the front common ligament in anatomical tension.
10. French Application No. WO 03/045262A2 The invention concerns an intervertebral implant comprising a wedge designed to be pressed between two spinal processes of two spinal vertebrae. Said wedge comprises: two elements (14, 16) having each a first portion (18, 22) adapted to be linked to a spinal process and a second support portion (20, 24), the two support portions (20, 24) being located opposite each other; elastically compressible means (38) arranged between said second support portions (20, 24) and linking means (34, 36) separate from the elastically compressible means for linking said elements (14, 16) together, said linking means (34, 36) being capable of locking said two elements (14, 16) in translation relative to each other when said two elements (14, 16) are driven in mutually opposite directions.
11. French Application No. WO 03/077806A1 The implant (1) comprises two side walls (2) resting against the vertebral end-plates and an intermediate wall (3) joining said supporting walls. The implant (1) can be deformed for insertion between the vertebrae (1), to be treated and in order to restore the attenuated mobility of said vertebrae (1)), and comprises means (4) for the mounting thereof on said vertebrae (10). According to the invention, said side walls (2), when seen from the side, have a curved shape, whereby the convexity thereof is oriented towards the outside of the implant (1); said intermediate wall (3) has a curved shape, whereby the convexity thereof is oriented toward the outside of the implant (1) and is such that it does not form any pronounced angles with the supporting side walls (2). The supporting side walls (2) and the intermediate wall (3), when seen from the side, have a partially oval shape like a water droplet; and the means (4) for dicing the implant (1) to the vertebrae (10) are configured in such a way that

said implant (1) can be mounted on the vertebrae (10), i.e. the implant (1) can be slightly deformed in relation to the vertebrae (1)) during the movement of said vertebrae.

12. French Application No. WO 2004/024010A1 The invention concerns an assembly (1) comprising an interspinous wedge (5) configured to be inserted between the spinous processes (9) of two vertebrae (2) to be treated, whereof at least one zone designed to be placed between the spinous processes of the vertebrae is made of an elastically deformable material. The assembly (1) further comprises: two compressive lateral elements (6) being deformable between releasing positions, wherein they are relatively spaced apart from the wedge (5) in the transverse direction, and compressive positions, wherein they are relatively close to the wedge (5) in the transverse direction; and two lateral transmission elements (7), placed between the compressive lateral elements (6) and the wedge (5), configured to press against the wedge (5) in the transverse direction thereof, at the interspinous zone (10) of wedge (5).
13. German Application No. WO 2004/098423A1 The invention relates to a dynamic anchoring device (1) provided with an element (2), which comprises both a shaft (3) for anchoring in a bone or in a vertebrae as well as a head (4) that is connected to said shaft (3). The anchoring device is also provided with a receiving part (5) that serves to receive said head and with a pressing element (20), which acts upon the head (4) and which is provided with an elastic design so that it exerts a restoring driving force onto the head (4) when the element (2) moves. The invention also relates to dynamic stabilizing device, particularly for stabilizing vertebrae, that comprises a rod (100) and two anchoring devices connected thereto of which at least one of the anchoring devices has a dynamic design.
14. Denmark Application No. WO 87/07827 The implant (1) for securing two adjacent vertebrae consists of a cylindrical or tubular open-cell metal body which has a solid construction at least at the proximal end (4) forming the operative surface of the striking tool.
15. French Application No. WO 95/05784 The invention relates to an ancillary equipment for exerting and maintaining a force on a portion of the vertebral column with a view to correcting and/or the forces exerted on the vertebrae before and during the fixing operation of implanted rachidian instrumentation, comprising at least two active extremities (4, 5, 6,) intended to co-operate respectively with two distinct vertebrae, characterized in that it is compressed of means to modify and maintain the relative positions of the active extremities (4, 5, 6) in at least three orthogonal directions, by modifying and maintaining the relative position of each active extremity (4, 5, 6) in at least one of said directions.
16. French Application No. WO 95/05785 The invention relates to a device for anchoring rachidian instrumentation of a vertebra, comprising at least one

support (55, 55a, 55b) carrying means (5a, 5b, 6a, 6b, 7a, 7b) for coupling the instrumentation to said support and means (35, 61, 65, 71) for anchoring the support (55, 55a, 55b) with respect to the vertebra, characterized in that the support (55, 55a, 55b) presents a convex face (56) which is shaped to the fit and lies against of at least one portion of the concave surface of the posterior arch of the vertebra on at least one side of the spinous process (58) of the vertebral column, and in that the anchoring means (35, 61, 65, 71) rigidly link at least two distinct portions of the support (55, 55a, 55b) to at least two corresponding distinct portions of the vertebra.

17. French Application No. WO 95/05786 Ancillary equipment for subjecting a portion of the spine to sustained stress in order to correct and/or maintain the shape of and/or the forces exerted on the vertebrae before and during the positioning of spinal implants. The equipment includes at least two engagement ends (6a, 6b, 6c,...and/or 6a', 6b', 6c',...) for engaging one or preferably both sides of at least two separate respective vertebrae, while at the same time engaging the parallel longitudinal rails (3) of the frame-like support (1) via corresponding corrective branches (4a, 4b, 4c,... and/or 4a', 4b', 4c',...) and a removable base (5) of said engagement ends, and further includes members (13, 17, 43, 65) for adjusting and locking the engagement ends (6a, 6b, 6c,... and/or 6a', 6b', 6c',...) in their relative positions in each or a combination of three orthogonal directions.
18. French Application No. WO 98/22033 The osteosynthesis system comprises two anchoring members (2) adapted for being fixed to two vertebra (4), and a connecting member (6; 106) adapted for connecting the two anchoring members by exerting stresses preventing the two anchoring members from coming together in translation. The connecting member (6; 106) is capable of flexural elastic deformation about a deformation axis (45, 47, 49). It comprises two fixing portions (16) adapted for being fixed to the two anchoring members (2) and an intermediate portion (40). The intermediate portion is offset relative to an axis (18) aligning the two fixing portions (16). The connecting member (6; 106) comprises two stops (39) arranged so as to be urged in support when the connecting member is deformed about the axis.
19. Swiss Application No. WO 98/48707 The invention relates to a a device for producing endochondral and osteochondral drilled holes. The device comprises a combination of an essentially hollow cylindrical sheath (10), one end of which has the form of a circular cutting edge (11), and an axially mobile flat drill (21) fitted rotationally in the sheath (10). By impressing the cutting edge (11) into the tissue, preferably only into the cartilaginous tissue, a tissue column is punched out, which can then be removed during screwing in the flat drill (20). Drilling is carried out up to the depth of the cutting edge (11) or deeper.
20. French Application No. EP 1343424B1 The invention concerns an intervertebral implant comprising a wedge designed to be pressed between



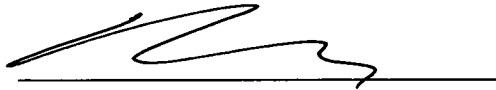
two spinous processes, said wedge having two opposite grooves each defined by two wings, the axes of said two grooves being substantially mutually parallel and said spinous processes being urged to be supported in said two grooves. The wedge (10) comprises at least a central recess (16) between said two grooves (12, 14), said central recess (16) passing right through said wedge (10) along an axis Ac substantially parallel to said axes Ag1 and Ag2 of said grooves, thereby making said wedge (10) is elastically deformable.

21. French Application No. EP 0322334B1 The invention relates to a prosthesis implanted between the vertebral spinous processes with locking suspension. It consists of a flat, semi-elastic braid (1) and one or more small pads (3, 4) made of the same material as the braid (1); the braid (1) is provided at one end with a lacing eyelet (2); the small pad (3 or 4) has the shape of a small hollow cylinder. The invention is used in particular for straightening the vertebrae in order to combat lordosis.
22. Swiss Application No. EP 0408489A1 In order to permit an adjustable fixation of two vertebrae (1, 2), anchoring elements (3) are fixed in identical positions corresponding to the established state of the vertebrae (1, 2) and are connected to an adjustable stabilising element (4) which is arranged skew. The connection is effected using a slotted clamp (5) which on the one hand holds the stabilising element (4) secure and which, inside a clamp aperture (7) provided with play, fixes in a desired position of inclination that end of the anchoring element (3) designed as a tension rod, in conjunction with a bearing disc (8) and a tightening nut (9).
23. Swiss Application No. EP 0669109B1 a stabiliser for adjacent thoracic vertebrae comprising a strap, which is made of elastic synthetic material and has a round cross-section (11) which is resistant to shearing forces, and at least two pedicular screws (2, 3) each of which may be anchored in a different vertebra in the direction of its screw axis (5) and each of which has a screw head (6) with a hole (7) transverse to the screw axis (5), through which may be threaded the strap, and each of which includes a clamping screw (8) to fix the strap (1) transversely to the hole (7) in the direction of the screw axis (5), and also including a support element (10) threaded onto the strap (1), characterised in that the support element (10) forms a pressure-resistant body for the transmission of compressive forces between two screw heads, the cross-section of the strap bears on all sides in fitting holes (9, 12) in the support element and screw head in order to mutually centre the support element (10) and the screw head (6), and in that the strap (1) can be prestressed between two adjacent pedicular screws over an extension continuing outside the pedicular screws in order to be able to support the support element (10) and the screw head (6) on a support area (13) which is common to them and is distributed around the strap (1).

24. French Application No. EP 0767637B1 A device for replacing all or part of the posterior vertebral articular processes (3, 13), engaging a support (7) and members for anchoring same to the vertebra, wherein each complete (5, 15) or partial (1, 11), upper (1, 5) and/or lower (11, 15) prosthesis mimics the anatomical shape of the posterior vertebral articular process and comprises artificial sliding surfaces (2, 12) facing one another between at least two adjacent vertebrae while adapting to the physiological orientation thereof, and the anchoring members comprise a support (7) with a convex surface matching and engaging at least one portion of the concave surface of the posterior arch of the vertebra on at least one side of the spinous process (9), and rigidly connect at least one separate portion of the support (7) to a corresponding separate portion of the vertebra.
25. Union of Soviet Socialist Republics Application No. SU 1468543 A1 (no abstract)
26. Union of Soviet Socialist Republics Application No. SU 1517953 A1 (no abstract)
27. China Application No. CN 2386790Y (no abstract)
28. French Application No. FR2721501A1 (Re-Translation)

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Respectfully submitted,



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Applicant: E. Marlowe Goble, et. Al

Docket No. MED-1 CON CIP

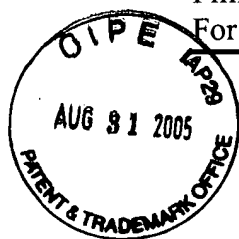
Serial No.: 10/687,865

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Group:

For: Facet Joint Replacement

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Docket No. MED-1 CON CIP

Serial No.: 10/687,865

Confirmation No.

Filing Date: October 17, 2003

Group:

For: Facet Joint Replacement

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Docket No. MED-1 CON CIP

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Confirmation No.

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Group:

For: Facet Joint Replacement

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Docket No. MED-1 CON CIP

Serial No.: 10/687,865

Confirmation No.

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Group:

For: Facet Joint Replacement

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Serial No.: 10/687,865

Filing Date: October 17, 2003

For: Facet Joint Replacement

Docket No. MED-1 CON CIP

Confirmation No.

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For: Facet Joint Replacement

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